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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

NGUYEN, MINH DIEU T

ART UNIT PAPER NUMBER

2137

DATE MAILED: 08/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/919,081	<b>Applicant(s)</b> DAYAN ET AL.	
	<b>Examiner</b> Minh Dieu Nguyen	<b>Art Unit</b> 2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2005.  
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-4, 6-9, 11-17, 19-22, 24-29, 31-34, 36-41, 43-46, 48 and 49 is/are rejected.  
7) ☒ Claim(s) 5, 10, 18, 23, 30, 35, 42 and 47 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 23 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

*PD*

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is in response to the communication dated May 23, 2005.

### ***Drawings***

2. The replacement drawing was received on May 23, 2005. The drawing is acceptable.
3. The drawings are objected to under 37 CFR 1.83(a) because they fail to show "if the result of the test in step 304 is YES, then the signature (e.g., a checksum) of the BIOS image is validated in step 307" as described in the specification. Fig. 3 shows wrong connection from the YES branch of element 304. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary

to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Response to Arguments***

4. Applicant's arguments filed May 23, 2005 with respect to the rejection(s) of claim(s) 1-49 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Anderson (6,003,130), Chaiken et al. (6,757,838), Chaiken (6,715,074), Maeda (6,651,150) and Miyamoto et al. (6,438,640).

#### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 10, 23, 35 and 47 recite the limitation "said secure data packet". There is insufficient antecedent basis for this limitation in the claim.

#### ***Claim Rejections - 35 USC § 103***

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7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-2, 6, 9, 13, 15, 19, 22, 25, 27, 31, 34, 38-39, 43 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (6,003,130) in view of Chaiken et al. (6,757,838).

a) As to claims 1, 13, 25 and 38, Anderson discloses a system for selecting, detecting and/or reprogramming system BIOS in a computer system comprising the steps of executing recovery code stored in a nonvolatile memory in response to a recover BIOS command (col. 3, lines 2-13); rewriting a first BIOS image (Fig. 2, element 80) in the nonvolatile memory with a second BIOS image in a protected portion of a nonvolatile storage unit in response to the recovery code (col. 5, lines 13-17); and updating the system using the rewritten second BIOS image in the nonvolatile memory.

Anderson discloses several different BIOS programs may be contained in the memory device (col. 3, lines 39-41) however he does not explicitly disclose the second BIOS image stored in a protected portion of a nonvolatile storage unit.

Chaiken discloses a computer system BIOS recovery comprising a flashable (main) ROM (i.e. first BIOS image, Fig. 3A, element 204; col. 6, lines 6-67) in the nonvolatile memory and a permanent (backup) (i.e. second BIOS image, Fig. 3A, element 202; col. 6, lines 60-64; col. 2, lines 60-62) stored in a protected portion of a nonvolatile storage unit. Chaiken discloses computer system BIOS recovery using

backup BIOS when the main BIOS is invalid or corrupt (col. 2, lines 50-56), and updating the system using backup (new) ROM BIOS (col. 1, lines 23-27; col. 3, lines 14-18), that anticipates the steps of rewriting a first BIOS image with a second BIOS image and updating the system using the rewritten second BIOS image.

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of having second BIOS image in a protected portion of a nonvolatile storage unit in the system of Anderson, as Chaiken teaches so as to provide high security level for information in the protected area.

b) As to claims 2, 15, 27 and 39, Chaiken as modified above discloses first BIOS image is rewritten with the second BIOS image if the first BIOS image is determined to be corrupted (col. 2, lines 50-58; col. 7, lines 11-18; col. 10, lines 10-24).

c) As to claims 6, 19, 31, and 43, Anderson as modified above discloses the nonvolatile memory is an electronically erasable programmable read only memory (col. 4, lines 18-20).

d) As to claims 9, 22, 34 and 46, Chaiken as modified above discloses the second BIOS image was written onto the protected partition of the nonvolatile storage unit at the time of manufacture (i.e. col. 7, lines 19-21, Chaiken discloses at manufacturing time, permanent and main BIOS generally are identical, he also discloses the backup BIOS is stored in a permanent protected portion of the non-volatile

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memory and the main BIOS is stored in a flashable portion of the non-volatile memory, col. 2, lines 60-63).

9. Claims 3-4, 7, 14, 16-17, 20, 26, 28-29, 32, 40-41 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (6,003,130) in view of Chaiken et al. (6,757,838) and further in view of Chaiken (6,715,074).

a) As to claims 3-4, 14, 16-17, 26, 28-29 and 40-41, Chaiken (6,757,838) discloses the recover BIOS command is generated in response to a recover BIOS request received by the computer system over a communication link (i.e. modem links) (col. 1, lines 23-26, updating is also necessary if problems with the first BIOS are detected).

Chaiken (6,715,074) explicitly discloses recovery BIOS can be downloaded over a communication link (col. 4, lines 14-18 anticipates a recover BIOS request is sent over a communication link by a computer system). Chaiken (6,715,074) also discloses request is part of a secure data packet via the communication link (col. 4, lines 19-67, i.e. encryption, checksum or cyclic redundancy check).

It would be obvious to one of ordinary skill in the art at the time of the communication to employ the use of sending recovery BIOS request in a secure means via communication link in the system of Anderson and Chaiken (6,757,838) as Chaiken (6,715,074) teaches so as to provide a secure remote update BIOS in a computer system.

b) As to claims 7, 20, 32 and 44, Chaiken (6,715,074) as modified above discloses the communication link comprises a LAN and a WAN (col. 4, lines 14-18).

10. Claims 8, 12, 21, 33, 37, 45 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (6,003,130) in view of Chaiken et al. (6,757,838) and further in view of Maeda (6,651,150).

a) As to claims 8, 21, 33 and 45, Anderson and Chaiken do not disclose the nonvolatile storage unit is an IDE disc drive.

Maeda discloses the nonvolatile storage unit is an IDE disc drive (col. 4, lines 38-40).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of IDE disc drive as non-volatile storage unit in the system of Anderson and Chaiken as Maeda teaches so as to provide common disk interface for hard drives.

b) As to claims 12, 37 and 49, Maeda as modified above discloses the second BIOS image is written onto the protected partition of the nonvolatile storage unit under control of an operating system executing an update BIOS image program on the system (col. 1, lines 41-47; col. 3, lines 27-29).



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11. Claims 11, 24, 36 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (6,003,130) in view of Chaiken et al. (6,757,838) and in view of Chaiken (6,715,074) and further in view of Miyamoto et al. (6,438,640).

Anderson, Chaiken (6,757,838) and Chaiken (6,715,074) do not disclose the secure data packet is a wake on LAN packet.

Miyamoto discloses a wakeup function that allows the computer system to return from a stop or sleep state to an operative state in response to a specific packet received i.e. flash BIOS ROM (Fig. 2) from a network, and a wakeup function control method (col. 1, lines 8-13).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of implementing wake on LAN packet in the system of Anderson, Chaiken (6,757,838) and Chaiken (6,715,074) as Miyamoto teaches so as to reduce PC maintenance/management cost (col. 1, lines 47-49).

#### ***Allowable Subject Matter***

12. Claims 5, 18, 30 and 42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. Claims 10, 23, 35 and 47 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

**Conclusion**


14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh Dieu Nguyen whose telephone number is 571-272-3873. The examiner can normally be reached on M-F 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2100.

Minh Dieu Nguyen  
Examiner  
Art Unit 2137

mdn  
7/29/05

  
EMMANUEL L. MOISE  
SUPERVISORY PATENT EXAMINER